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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x
4 UNITED STATES OF AMERICA

5 v.

22 CR 606 (PGG)
Plea

6 JAMES ZHONG

7 Defendant

8 -----x

9 New York, N.Y.
10 November 4, 2022
11 11:30 a.m.

12 Before:

13 HON. PAUL G. GARDEPHE

District Judge

14 APPEARANCES

15 DAMIAN WILLIAMS

United States Attorney for the
Southern District of New York

16 DAVID FELTON

Assistant United States Attorney

17 MICHAEL BACHNER

Attorney for Defendant

18 ALSO PRESENT S.A. Trevor McAleenan, IRS
19 S.A. Michael Lane, IRS
20 Jazzlyn Harris, USPT (SDNY)

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1 (In open court; case called)

2 DEPUTY CLERK: Counsel for the government, please a
3 state your appearance.

4 MR. FELTON: Good morning, your Honor. David Felton
5 for the government, joined by IRS CI Special Agents Trevor
6 McAleenan and Michael Lane to my left, and from pretrial
7 services Jazzlyn Harris in the jury box.

8 THE COURT: Hello. How are you?

9 DEPUTY CLERK: Defense, please state your appearance.

10 MR. BACHNER: Good morning, your Honor. Michael
11 Bachner on behalf of James Zhong. Nice to see you, your Honor.

12 THE COURT: Likewise.

13 I understand that Mr. Zhong self-surrendered this
14 morning. Is that correct?

15 MR. FELTON: Yes, your Honor.

16 THE COURT: Mr. Zhong, I am required to advise you of
17 certain rights you have. You do have the right to remain
18 silent. You are not required to make any statements. You can
19 remain seated throughout.

20 Mr. Zhong, you do have the right to remain silent.
21 You're not required to make any statements. Even if you have
22 made statements to the authorities, you need not make any
23 further statements. Anything you do say can and will be used
24 against you. You do have the right to be released on bail,
25 either conditionally or unconditionally, pending trial, unless

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1 I find there are no conditions or combination of conditions
2 that will ensure your return to court and the safety of the
3 community.

4 You do have the right to be represented by counsel
5 during all court proceedings, including this one, and during
6 any questioning by the authorities. If you cannot afford an
7 attorney, an attorney will be appointed to represent you.

8 I do understand, however, that you have retained
9 Mr. Bachner to represent you. Is that true, Mr. Zhong?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Mr. Zhong, do you understand your rights
12 as I've read them to you?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Mr. Bachner, I further understand that
15 Mr. Zhong intends to plead guilty to a one count information.
16 Is that correct?

17 MR. BACHNER: Yes, your Honor, it is.

18 THE COURT: Mr. Ruocco, would you please swear the
19 defendant.

20 (Defendant sworn)

21 THE COURT: Mr. Zhong, you should understand you're
22 now under oath, and if you answer any of my questions falsely,
23 your answers may later be used against you in another
24 prosecution for perjury or for making a false statement. Do
25 you understand that?

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1 THE DEFENDANT: Yes.

2 THE COURT: Do you understand?

3 THE DEFENDANT: Yes.

4 THE COURT: Have you received a copy of the
5 information which reflects the charge against you?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: And have you discussed it with
8 Mr. Bachner?

9 THE DEFENDANT: Yes.

10 THE COURT: You should understand that you are charged
11 in the information with wire fraud by engaging in a scheme to
12 defraud the Silk Road internet marketplace of money and
13 property through several unlawful means in or about
14 September 2012. Do you understand that that's the charge
15 against you in the information?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: I have been given a waiver of indictment
18 form that appears to have been signed by you and by Mr. Bachner
19 and by my deputy, Mr. Ruocco. Did you sign this waiver of
20 indictment form?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Did you discuss it with Mr. Bachner before
23 you did so?

24 THE DEFENDANT: Yes.

25 THE COURT: Did he explain it to you?

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1 THE DEFENDANT: Yes.

2 THE COURT: You should understand you have no
3 obligation to waive indictment. Do you understand that?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Have any threats been made against you or
6 any promises been made to you to induce you to waive
7 indictment?

8 THE DEFENDANT: No.

9 THE COURT: You should understand that if you did not
10 waive indictment, the government would be required to present
11 your case to a grand jury, which would be asked to determine
12 whether there's probable cause to believe that a crime was
13 committed and that you committed it. Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: You should further understand that the
16 grand jury might or might not choose to indict you. Do you
17 understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: And you should realize that by signing
20 this waiver of indictment form, you have given up your right to
21 have your case presented to a grand jury, and instead the case
22 against you will proceed on the basis of the information signed
23 by the U.S. Attorney. Do you understand that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: I find that the defendant has knowingly

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1 and voluntarily waived his right to have this case presented to
2 a grand jury, and that the case will instead proceed by way of
3 information. I have also been given an Advice of Rights form
4 that appears to have been signed by Mr. Zhong and by
5 Mr. Bachner.

6 Mr. Zhong, is this your signature on the Advice of
7 Rights form?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: I will mark it as Exhibit 1 to these
10 proceedings.

11 Finally, I have been given a plea agreement that
12 appears to have been signed by Mr. Zhong, Mr. Bachner and by
13 representatives of the U.S. Attorney's Office.

14 Mr. Zhong, is this your signature on the plea
15 agreement?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: I will mark it as Exhibit 2 to these
18 proceedings.

19 Before deciding whether to accept your guilty plea,
20 I'm required to ask you certain questions. It is important you
21 answer these questions honestly and completely. The purpose of
22 these proceedings is to make sure that you understand your
23 rights and for me to make certain that you are pleading guilty
24 of your own free will, and to make sure that you're pleading
25 guilty because you are in fact guilty and not for some other

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1 reason. Do you understand that?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: If you don't understand any of my
4 questions or you want to consult with Mr. Bachner at any time,
5 please say so because it is important you understand every
6 question before you answer. Could you please state your full
7 name for the record?

8 THE DEFENDANT: James Zhong.

9 THE COURT: How old are you?

10 THE DEFENDANT: 32.

11 THE COURT: How far did you go in school?

12 THE DEFENDANT: I have a bachelor's degree in computer
13 science from the University of Georgia.

14 THE COURT: Have you ever been addicted to any drugs
15 or alcohol or been treated for any addiction?

16 THE DEFENDANT: I had an arrest for cocaine five, six
17 years ago, and I had one evaluation because of that, but no
18 further treatment.

19 THE COURT: Okay. Do you consider yourself to ever
20 have been addicted to any drug or addicted to alcohol at any
21 point in time?

22 THE DEFENDANT: No.

23 THE COURT: Are you experiencing any symptoms of any
24 sort associated with your past use of drugs?

25 THE DEFENDANT: No.

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1 THE COURT: Are you now or have you recently been
2 under the care of any kind of doctor?

3 THE DEFENDANT: No.

4 THE COURT: In the past 24 hours, have you taken any
5 drugs, medicine or pills or drunk any alcohol?

6 THE DEFENDANT: I had one drink at the airport on the
7 way here, and that's it.

8 THE COURT: Okay. Is your mind clear today, and do
9 you understand what is happening?

10 THE DEFENDANT: Yes.

11 THE COURT: Mr. Bachner, do you have any doubt as to
12 Mr. Zhong's competence to plead guilty this morning?

13 MR. BACHNER: I do not, your Honor.

14 THE COURT: On the basis of Mr. Zhong's responses to
15 my questions and my observations of his demeanor, I do find
16 that he is competent to enter an informed plea.

17 Mr. Zhong, have you had enough time to discuss your
18 case with Mr. Bachner?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Have you discussed with him the charge
21 against you, as well as your intention to plead guilty?

22 THE DEFENDANT: Yes.

23 THE COURT: And have you discussed with Mr. Bachner
24 any possible defenses you might have to the charge against you
25 and all the facts about your involvement in this matter?

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1 THE DEFENDANT: Yes.

2 THE COURT: And has Mr. Bachner told you about the
3 consequences of pleading guilty?

4 THE DEFENDANT: Yes.

5 THE COURT: And are you satisfied with Mr. Bachner's
6 representation of you?

7 THE DEFENDANT: Yes.

8 THE COURT: I'm required to explain certain
9 constitutional rights that you have. These are rights you'll
10 be giving up if you enter a guilty plea. Please listen
11 carefully to what I'm about to say. If you don't understand
12 something, stop me, and either myself or Mr. Bachner will
13 explain the matter to you more fully.

14 Under the Constitution and laws of the United States,
15 you have a right to a speedy and public trial by a jury on the
16 charge against you in the information. Do you understand that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: If there were a trial, you would be
19 presumed innocent, and the government would be required to
20 prove your guilt by competent evidence and beyond a reasonable
21 doubt. You would not have to prove you were innocent at a
22 trial. Do you understand that?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: If there were a trial, a jury composed of
25 12 people selected from this district would have to agree

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1 unanimously before you could be found guilty. Do you
2 understand that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: If you decided to go to trial, at that
5 trial and at every stage of your case, you would have the right
6 to be represented by an attorney; and if you could not afford
7 one, an attorney would be appointed to represent you at
8 government expense and at no cost to you. If you retained a
9 lawyer and you ran out of money, an attorney would be appointed
10 to continue to represent you, and to handle your case all the
11 way through trial and not just for purposes of a guilty plea.
12 So your decision to plead guilty should not depend on whether
13 you can afford a lawyer. Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: If there were a trial, you would have the
16 right to see and hear all of the witnesses against you, and
17 your attorney could cross-examine them. You would have a right
18 to have your attorney object to the government's evidence and
19 to offer evidence on your behalf if you so desired. You would
20 have the right to have subpoenas issued to compel witnesses to
21 testify in your defense. Do you understand that?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: If there were a trial, you would have the
24 right to testify if you wanted to but no one could force you to
25 testify if you did not want to. Furthermore, no inference or

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1 suggestion of guilt could be drawn if you chose not to testify
2 at a trial. Do you understand that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: If you were convicted at a trial, you
5 would have the right to appeal that verdict to a higher court.
6 Do you understand that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Even now as you're entering this plea, you
9 have the right to change your mind, plead not guilty and go to
10 trial on the charge contained in the information. Do you
11 understand that?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: If you plead guilty, and I accept your
14 plea, you will give up your right to a trial and the other
15 rights I just discussed, other than the right to a lawyer which
16 you have regardless of whether or not you plead guilty.

17 If you plead guilty, I will enter a judgment of guilty
18 and sentence you on the basis of your plea after I've
19 considered a presentence report and whatever submissions I
20 receive from your lawyer and from the prosecutor. Do you
21 understand that?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: If you plead guilty, you will have to give
24 up your right not to incriminate yourself because I will ask
25 you questions about what you did in order to satisfy myself

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1 that you are guilty as charged, and you will have to admit and
2 acknowledge your guilt. Do you understand that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: As I said earlier, the information charges
5 you with wire fraud. I will now tell you the elements of this
6 offense. This is what the government would have to prove
7 beyond a reasonable doubt if you were to go to trial.

8 First, the government would have to prove that there
9 was a scheme or artifice to defraud to obtain money or property
10 by materially false and fraudulent pretenses, representations
11 or promises. Here, the government claims that you created a
12 string of Silk Road accounts in a manner designed to conceal
13 your identity; that you triggered multiple transactions in
14 rapid succession in order to trick Silk Road into releasing
15 bitcoin from its bitcoin-based payment system into these
16 accounts, and that you transferred this bitcoin into separate
17 addresses also under your control. These are the allegations
18 set forth in paragraph one of the information.

19 Second, the government would have to prove that you
20 knowingly and willfully participated in the scheme or artifice
21 to defraud with knowledge of its fraudulent nature and with
22 specific intent to defraud.

23 And, third, that in executing this fraudulent scheme,
24 you used or caused the use of interstate wires.

25 Do you understand that these are the elements of the

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1 offense you have been charged with?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Now, I do have some questions for the
4 government and Mr. Bachner before I proceed further. And that
5 is, first of all, the information says that the scheme was
6 perpetrated in the Middle District of Georgia and elsewhere.
7 So should I understand that Mr. Zhong is waiving venue for
8 purposes of this prosecution?

9 MR. FELTON: Yes, your Honor.

10 THE COURT: Okay. Is that true, Mr. Bachner?

11 MR. BACHNER: It is, your Honor. He will so state in
12 his allocution.

13 THE COURT: Okay. Mr. Zhong, I want you to understand
14 that, first of all, the information, the charging document,
15 says that you committed a crime, it says in the Middle District
16 of Georgia and elsewhere. You do have a right to be prosecuted
17 in Georgia if you wish rather than here in the Southern
18 District of New York.

19 Have you discussed venue, this issue of venue with
20 Mr. Bachner?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: And have you decided to waive your right
23 to be prosecuted in Georgia as opposed to here in New York?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: And then the second point I wanted to ask

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1 the parties about has to do with the statute of limitations.
2 So the information charges that the crime was committed in
3 2012. Generally speaking, there is a five-year statute of
4 limitations that applies to federal crimes. Does everyone
5 agree that, generally speaking, there would be a five-year
6 statute of limitations here?

7 MR. FELTON: Yes, your Honor.

8 THE COURT: You agree, Mr. Bachner?

9 MR. BACHNER: I do, your Honor.

10 THE COURT: Mr. Bachner, is it your client's intention
11 to waive any rights he might have to argue that the charge
12 against him is time barred?

13 MR. BACHNER: It is, your Honor.

14 THE COURT: Okay.

15 So, Mr. Zhong, the statute of limitations for the
16 crime you're charged with in the information is five years.
17 Accordingly, you could argue that the time to prosecute you for
18 this crime has passed, and that the crime is now time barred;
19 you can no longer be prosecuted. Have you discussed this with
20 Mr. Bachner?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: And is it true that you agree to waive any
23 statute of limitations defense you might have with respect to
24 this charge in the information?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: All right. I find that Mr. Zhong has
2 knowingly and voluntarily waived both venue as well as any
3 argument here that the crime charged in the information is time
4 barred.

5 Mr. Zhong, I am required to tell you the maximum and
6 any minimum possible penalties for this crime. The maximum
7 means the most punishment that could possibly be imposed. It
8 does not necessarily mean that is what you will receive. But
9 you have to understand that by pleading guilty, you are
10 exposing yourself to the possibility of receiving any
11 combination of punishments up to the maximum I am about to
12 describe. Do you understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: The charge against you carries a maximum
15 sentence of 20 years' imprisonment. Any term of imprisonment
16 could be followed by as much as three years' supervised
17 release. Supervised release means that if you are sentenced to
18 prison, after you are released from prison, you will be subject
19 to supervision by the U.S. Probation Office. There will be
20 rules of supervised release that you will have to follow, and
21 if you violate those rules, you can be returned to prison
22 without a jury trial to serve additional time even beyond your
23 sentence.

24 In addition, the crime you are pleading guilty to
25 carries a maximum fine of the greatest of \$250,000, or twice

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1 the gross pecuniary gain derived from the offense, or twice the
2 gross pecuniary loss resulting from the offense. Do you
3 understand those penalties?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Parole has been abolished in our federal
6 system, and if you are sent to prison, you will not be released
7 early on parole. There is a limited opportunity to earn credit
8 for good behavior, but you will have to serve at least
9 85 percent of the time you are sentenced to you. Do you
10 understand that?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: There is also a mandatory minimum fine or
13 special assessment of \$100 that I am required to impose. Do
14 you understand that?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: As part of your sentence, I can also order
17 you to make restitution to any person or entity who was injured
18 as a result of your criminal conduct, and I can also order to
19 you forfeit certain property to the government. Do you
20 understand that?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Being convicted of a felony may have other
23 consequences, such as the loss of licenses or the right to
24 possess a firearm. If you are a citizen of the United States,
25 you could lose your right to vote. If you are not a citizen of

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1 the United States, you will likely lose your right to remain in
2 the United States, and you may be deported. This is not a full
3 list of the consequences of a felony conviction, but these are
4 examples. Do you understand that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: There are Sentencing Guidelines I'm
7 required to consult in order to determine an appropriate
8 sentence in your case. Have you spoken with Mr. Bachner about
9 the Sentencing Guidelines?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: You should understand I will not be able
12 to determine what the guideline sentence is until after a
13 presentence report has been prepared by the U.S. Probation
14 Office, and you and the government have had a chance to comment
15 on that report. Do you understand that?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: You should also understand that after I
18 determine what the appropriate guidelines range is and after I
19 have determined whether a departure upwards or downwards from
20 that range is called for, I will then determine what an
21 appropriate sentence is in your case, having in mind not only
22 the Sentencing Guidelines but all the factors set forth in the
23 sentencing statute, including the need for the sentence imposed
24 to reflect the seriousness of the offense, the need to promote
25 respect for the law, to provide just punishment, and to afford

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1 adequate deterrence to criminal conduct. Do you understand
2 that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: You should understand that if your
5 attorney or anyone else has attempted to estimate or to predict
6 what your sentence will be, that their estimate or prediction
7 could be wrong. Do you understand that?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: No one, not even your attorney or the
10 prosecutor, can give you any assurance of what your sentence
11 will be. Your sentence cannot be determined until the
12 presentence report is complete, and I have ruled on any
13 challenges to the report, determined whether I believe there
14 are grounds to depart, whether upwards or downwards from the
15 guideline range, and otherwise determine what an appropriate
16 sentence is in your case. Do you understand that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: You should fully understand that even if
19 your sentence is different from what your attorney or anyone
20 else told you it might be, or if it is different from what you
21 expect, you will still be bound by your guilty plea, and you
22 will not be allowed to withdraw your plea of guilty. Do you
23 understand that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: I have been given a plea agreement which

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1 I've marked as Exhibit 2 to these proceedings. You told me
2 that it bears your signature. Did you discuss the plea
3 agreement with Mr. Bachner before you signed it?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Did you fully understand all the terms of
6 the plea agreement before you signed it?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Does this agreement constitute your
9 complete and total understanding of the entire agreement
10 between you and the United States Government as to this matter?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Has anyone offered you any inducements or
13 threatened you or forced you to plead guilty or to enter into
14 this plea agreement?

15 THE DEFENDANT: No, your Honor.

16 THE COURT: One provision of your plea agreement is
17 that you are giving up your right to appeal your sentence or to
18 challenge your sentence in any way or at any time so long as I
19 sentence you to 33 months' imprisonment or less. Do you
20 understand that?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: There is another provision in which you
23 agree in the plea agreement that you will not appeal or
24 challenge the legality of any fine that's less than or equal to
25 \$100,000, or any forfeiture amount that is less than or equal

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1 to \$42,747,425.95. Do you understand that?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Mr. Bachner, do you know of any valid
4 defense that would prevail at trial or any other reason why
5 Mr. Zhong should not be permitted to plead guilty today?

6 MR. BACHNER: No, your Honor.

7 THE COURT: And do you believe there's an adequate
8 factual basis to support a guilty plea?

9 MR. BACHNER: I do, your Honor.

10 THE COURT: Mr. Felton, does the government represent
11 there is an adequate factual basis to support a guilty plea?

12 MR. FELTON: Yes, your Honor.

13 THE COURT: Mr. Zhong, we've reached the point in the
14 proceedings where I need you to tell me what you did that makes
15 you believe that you are guilty of the crime charged in the
16 information.

17 THE DEFENDANT: Sometime in 2012, when I was 22 years
18 old, I began using the Silk Road dark-web internet website to
19 purchase small amounts of personal use drugs to use socially on
20 the weekends in my home in Georgia. To that end, I deposited
21 bitcoin in an account I created with Silk Road.

22 In September of 2012, after using the site just once
23 or twice, I decided I no longer wanted to buy anything else
24 from Silk Road and decided to withdraw my bitcoin from the
25 website. While doing so, I accidentally double-clicked the

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1 withdraw button and was shocked to discover that it resulted in
2 allowing me to withdraw double the amount of bitcoin I had
3 deposited. Once I realized the website had this flaw, I took
4 advantage of the flaw by creating several user accounts to hide
5 who I was and conducted multiple internet transactions in quick
6 succession, which improperly caused the Silk Road bitcoin
7 payment system to release about 50,000 coins to me that did not
8 belong to me.

9 After I had control over the bitcoin valued then at
10 about \$600,000 I transferred the bitcoin into separate
11 addresses which I also controlled.

12 My conduct took a few hours spread over two days. I
13 stopped my conduct voluntarily, even though I believe I could
14 have continued to withdraw more coins undetected.

15 Once I stopped my illegal conduct, I never helped or
16 encouraged anyone else to do what I did. I knew that my
17 conduct was wrong, and I am truly remorseful for what I did. I
18 therefore voluntarily provided the government with the
19 necessary information to access my cryptocurrency accounts even
20 before I had any plea agreement with the government. I am
21 truly sorry for my behavior.

22 THE COURT: Does the government wish me to ask any
23 additional questions of Mr. Zhong?

24 MR. FELTON: Your Honor, if the defendant could just
25 clarify whether he used or caused the use of interstate wires

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1 as part of the scheme to defraud.

2 THE COURT: So, Mr. Zhong, I gather from what you
3 said, that you were using the internet to access your account
4 at Silk Road. Is that true?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: So you admit that in executing the
7 fraudulent scheme that you have described, that you were using
8 interstate wires?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Anything else?

11 MR. FELTON: Not for the Court to ask the defendant,
12 your Honor.

13 THE COURT: All right. Mr. Zhong, are you pleading
14 guilty because you are in fact guilty?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Are you pleading guilty voluntarily and of
17 your own free will?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: I will ask you now, how do you plead as to
20 the charge in the information? Guilty or not guilty.

21 THE DEFENDANT: Guilty.

22 THE COURT: Does the government wish me to allocute
23 Mr. Zhong as to the forfeiture allegation?

24 MR. FELTON: Yes, your Honor.

25 THE COURT: Mr. Zhong, the information includes what

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1 is known as a forfeiture allegation in which the government has
2 put you on notice that it seeks any and all property
3 constituting or derived from any proceeds that were obtained
4 directly or indirectly as a result of the charged offense,
5 including your 80 percent interest in RE&D Investments LLC. Do
6 you admit the forfeiture allegations set forth in the
7 information?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Because you acknowledge you are guilty as
10 charged in the information, because I find that you know your
11 rights and you are waiving them knowingly and voluntarily, and
12 because I find your plea is entered knowingly and voluntarily
13 and is supported by an independent basis in fact containing
14 each of the essential elements of this offense, I accept your
15 guilty plea and adjudge you guilty of the offense to which you
16 have pled guilty.

17 I should also say that I have been handed a consent
18 preliminary order of forfeiture which cites certain property
19 that the government has seized and which the defendant agrees
20 to forfeit. The consent preliminary order of forfeiture
21 appears to have been signed by Mr. Zhong, by Mr. Bachner and by
22 Mr. Felton on behalf of the United States.

23 Mr. Zhong, is this your signature on the consent
24 preliminary order of forfeiture?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: And you spoke with Mr. Bachner before you
2 signed it?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: And you understand the terms of the
5 consent preliminary order of forfeiture?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: All right. Then I will execute that order
8 now.

9 I will schedule sentencing for February 22, 2023 at
10 12:00. I will order a presentence report.

11 Mr. Zhong, I ask you to cooperate with the people who
12 prepare the report because it will be important to me in making
13 my decision as to what your sentence will be. You and
14 Mr. Bachner will have an opportunity to review the presentence
15 report before sentencing. I urge you to review it carefully
16 with him and discuss it with him before sentencing. If there
17 are any mistakes in the report, please point them out to
18 Mr. Bachner so that he can point them out to me before
19 sentencing so that I don't proceed on the basis of mistaken
20 information.

21 Given the sentencing date of February 22, 2023, I will
22 schedule the defendant's sentencing submission for February 1
23 and the government's sentencing submission for February 8.

24 I will now hear the parties as to bail.

25 MR. FELTON: Your Honor, the parties have a proposed

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1 package for the Court's consideration.

2 THE COURT: All right.

3 MR. FELTON: The bond would be a \$310,000 personal
4 recognizance bond that's unsecured -- so no cosigners, no
5 property -- where the defendant could be released the same day
6 on his signature. The parties agree with the recommended
7 conditions 1 through 8 in the pretrial services report on page
8 5. I'm happy to read them to the Court or not, depending on
9 the Court's preference.

10 THE COURT: All right. I see the eight items listed,
11 so, no, it's not necessary for you to read them at this point.

12 Mr. Bachner, it's true that you have agreed to this
13 bail package?

14 MR. BACHNER: Yes, your Honor. Mr. Zhong has also
15 agreed to give a urinalysis to test. He hasn't used any type
16 of illegal drugs in years, but if pretrial would like a
17 urinalysis specimen, we're fine with giving it. We agree with
18 the terms then, your Honor.

19 THE COURT: What is pretrial position on whether
20 Mr. Zhong should be tested today before he returns to Georgia?

21 MS. HARRIS: Yes, he should be tested.

22 THE COURT: Okay. So I will include that as a
23 condition. So I will release Mr. Zhong on the following
24 conditions: \$310,000, is that what you said?

25 MR. FELTON: Yes, your Honor.

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1 THE COURT: \$310,000 personal recognizance bond,
2 pretrial services supervision, regular pretrial services
3 supervision, surrender of all travel documents and no new
4 application for travel documents. Travel restricted to the
5 Northern District and Middle District of Georgia, Southern
6 District of New York and Eastern District of New York with
7 travel permitted between those points for purposes of court
8 appearances and legal consultation.

9 Also, the defendant is not to possess a firearm, a
10 destructive device or other dangerous weapon, and he will
11 surrender all firearms and firearms licenses to a responsible
12 third party or local law enforcement and provide proof of same
13 to the pretrial services officer.

14 As we've agreed, Mr. Zhong will submit to a drug test
15 today before he returns to Georgia. Mr. Zhong will obtain and
16 maintain verifiable employment during the period of his
17 pretrial release, and he will maintain a single residence and
18 not relocate without the approval of the pretrial services
19 officer. Yes?

20 MR. BACHNER: Yes, your Honor, just briefly, I should
21 have brought this to the Court's attention. The government is
22 aware of this. Mr. Zhong -- there is a bankruptcy proceeding
23 related to a piece of property in Tennessee. It's unlikely he
24 is going to have to personally attend, but he may have to. Can
25 we have a carveout that he can travel to Tennessee with notice

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1 to the government and to pretrial for court proceedings in that
2 jurisdiction so I don't have to bother the Court with a letter?

3 THE COURT: Does the government have any objection to
4 that?

5 MR. FELTON: No objection. We consent and agree to
6 that.

7 THE COURT: The pretrial services officer has no
8 objection to that?

9 MS. HARRIS: No objection.

10 THE COURT: So I will add that to the order.

11 MR. BACHNER: Thank you, your Honor.

12 THE COURT: Mr. Felton, anything else on behalf of the
13 government?

14 MR. FELTON: Your Honor, the only thing -- and I think
15 this goes without saying -- on the bonds there's typically a
16 provision that the defendant must not violate the federal,
17 state or local law. The Court didn't specifically state that,
18 but just in an abundance of caution, that's the only thing.

19 THE COURT: Mr. Zhong, you are not to commit any
20 violation of federal, state or local law during the period you
21 are on pretrial release.

22 MR. BACHNER: Judge, also the passport has already
23 been confiscated by the FBI or by the agents, so that's been
24 resolved.

25 THE COURT: Okay. Just to be clear, I am authorizing

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1 Mr. Zhong's release on his own signature today.

2 MR. BACHNER: Thank you, Judge.

3 THE COURT: Mr. Felton, anything else on behalf of the
4 government?

5 MR. FELTON: No, your Honor. Thank you very much.

6 THE COURT: Mr. Bachner, anything else on behalf of
7 the defense?

8 MR. BACHNER: No, your Honor. Have a nice
9 Thanksgiving holiday.

10 THE COURT: Thank you, and same to you. Good day.

11 (Adjourned)